Ridgewood Renewable Power

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Via email doer.rps@state.ma.us

Robert Sydney, Esq.
General Counsel
Massachusetts Division of Energy Resources
100 Cambridge Street
Suite 1020
Boston, MA 02114

RE: **Final Comments on Proposed Revisions to the Regulations for the Massachusetts Renewable Energy Portfolio Standard**

Dear Mr. Sydney:

On July 6, 2006, Ridgewood Renewable Power, LLC ("Ridgewood") submitted its initial comments to the Massachusetts Division of Energy Resources ("DOER") in response to the June 2, 2006 "Notice of Public Hearing and Proposed Regulations" ("Initial Comments"). Ridgewood now submits to the DOER its final comments to the DOER ("Final Comments").

Use of Guidelines

As stated in our Initial Comments, we object to the use of the Guidelines as a methodology for determining biomass eligibility. Initially, the use of Guidelines as proposed by the DOER is a violation of law in that, given the content of the Guidelines; the DOER must act pursuant to duly adopted regulations. Secondly, the Guidelines are complicated, confusing and changeable. As such they will create more unpredictability and uncertainty for the industry and make it more difficult to finance and develop a biomass project. Finally, as we mentioned in our Initial Comments, the Guidelines are not needed to clear any confusion in the industry as to what qualifies. Any confusion that exists was created by inconsistent and overreaching advisory rulings, biomass guidelines, the reversal thereof and other actions taken during the past two years. Ridgewood suggested how the DOER could clarify the situation through the issuance of a policy statement.

Vintage Issues

Ridgewood agrees with the overwhelming majority of commenters that no existing (pre-1998) facility, whether biomass or otherwise, should be permitted to participate in the Massachusetts Renewable Portfolio Standard ("RPS") without a vintage. The one exception with which Ridgewood could agree is for a "repowered" or "replaced" facility but not a "retrofitted" facility.

Although Ridgewood objected to the inclusion of a "replaced" facility in its Initial Comments it did so because the Proposed Regulations failed to provide any specifications as to what would a constitute a "replaced" facility and that under no circumstances could a landfill facility be deemed a replaced facility. As we stated in our Initial Comments and as stated by other parties, Ridgewood supports the adoption by the DOER of a "repowered facility" using the Rhode Island standard as embodied in Section 3.28 of the "Rules and Regulations Governing the Implementation of a Renewable Energy Standard". However, Ridgewood still objects to the DOER's refusal to include landfill facilities as legitimate candidates for a repowered or replaced facility.

Retrofitted Facilities/Stokers

Ridgewood agrees with the comments of Clean Power Now and others that under no circumstances should a stoker or pile burn be permitted to participate in the RPS unless it retrofits to fluidized bed technology **and only then with a vintage**. The Legislature was clear in its March 6, 2002 letter to the DOER on this point. Russell Biomass, LLC, however, makes the point that stoker-fired facilities should be permitted because such facilities meet the legislative goal of promoting new renewable development and are "6-8% more efficient" than fluidized bed technology. Russell Biomass provides no support for its claim that stokers are more efficient than fluidized bed technology. However, notwithstanding such unsupported claim, Russell Biomass misunderstands the legislative intent of the RPS. It was not the goal of the Massachusetts legislature to promote new renewable generation development but rather to promote the development of certain renewable technologies. Stoker technology, as we can clearly see from the legislature's March 6, 2002 letter, was not among the technologies that the legislature sought to promote and therefore should be excluded.

Construction & Demolition Debris

Practically all parties objected to the DOER's proposed plan to allow those who burn construction & demolition debris ("C&D") to participate in the RPS. While some parties, such as Ridgewood and Clean Power Now, objected to its use completely, others such as Conservation Law Foundation and Union of Concerned Scientists, Russell Biomass et al, objected to its use unless it could not be re-used or recycled, or if its use did not pose any harm to human health or the environment, or if it could be used with minimum sorting requirements, or it is used in conjunction with strict emissions tests. Ridgewood believes that these "half-measures" are really no measures at all and would

create even more difficulties for the RPS. For example, strict sorting requirements would be difficult for the DOER to police and enforce. Moreover, a demonstration that a particular use of C&D would result in no health or environmental harm would be difficult and susceptible to differing views of science and proof. More importantly, however, these "half-measures" once again represent varying parties trying to solve another problem that faces the Commonwealth through the RPS.

We all recognize that because of the ban on land filling, C&D has become a problem. Many people have argued that at least one partial solution is to combust C&D to make electricity. Although Ridgewood has significant concerns regarding the emissions associated with burning C&D, anyone who desires to generate electricity though the combustion of C&D, provided all required air permits are obtained, is free to do so. Such entities, however, should not receive RPS credit for doing so.

Given the structure of the RPS and the fixed renewable requirement, any MW generated through the burning of C&D that receives RPS credit necessarily means that a MW generated through the burning of "clean wood", or from wind or solar is excluded. Also, because many believe that the cost of C&D will be low; if given the chance to burn it to generate renewable energy credits ("REC"), developers will burn it in large quantities. An RPS in which a significant portion of the RECs are generated through the burning of C&D sends the wrong message to the people of Massachusetts. Moreover, the harmful emission of metals and other toxins associated with burning C&D are potentially to dangerous to the environment for the DOER to "encourage" this activity without having the legislature, on behalf of the citizens of Massachusetts, clearly decide the matter.

Ridgewood understands that a bill to ban significant burning of C&D was introduced in the legislature and sent to a study. After the conclusion of any such study, we are confident that Massachusetts will ban the use of C&D in the RPS, as the states of Connecticut and Rhode Island have done. The better course of action for the RPS, therefore, is to exclude C&D as an eligible biomass fuel until such time as the legislature has completed its study or otherwise acts to include it in the RPS.

Finally, XGenesys requests that the DOER include as Eligible Biomass Fuels "wood char" and "naturally occurring components of wood that are a byproduct of a renewable energy/fuel generating process." Although vague and overly broad, this request could be read to include "black liquor", an adulterated biomass fuel, which is a byproduct of the papermaking process and which is laced with toxic chemicals. Ridgewood disagrees with this request because the vague nature of the request could result in fuels as potentially hazardous as C&D being included in the RPS. Given the nearly uniform disagreement to the DOER's inclusion of C&D as an Eligible Biomass Fuel, there is no reason to expand that definition further. Ridgewood agrees with the definition of Eligible Biomass Fuels offered by Arnold Wallenstein in his initial comments.

Adjacent Control Areas

The Union of Concerned Scientists, as well a speaker at the June 28th public hearing, supports the expansion of eligible regions to those other than an adjacent control area provided that there is delivery of the energy to NEPOOL and the import can be properly accounted for by the NEPOOL GIS. While deliverability is an important factor to determining whether RPS credit should be received, it is not the only factor, and permitting generators in control areas other than adjacent control areas to receive RPS credit for their delivered energy will defeat the purposes of the RPS and provide no corresponding benefit to NEPOOL or the Massachusetts ratepayers.

As mentioned in our Initial Comments, Massachusetts ratepayers receive the benefit of renewable energy from a Maine, Rhode Island or Connecticut renewable facility because the "renewable energy" generated by such facility is delivered directly to NEPOOL and used by Massachusetts ratepayers. Similarly, a renewable generation unit in an adjacent control area delivers its renewable energy directly to NEPOOL through use of a unit contract. Massachusetts ratepayers likewise receive the benefit of the renewable energy from that unit that is delivered to NEPOOL. However, a renewable generator in a non-adjacent control area would be required to deliver through two control areas. Such delivery would be accomplished through two separate types of contracts and delivery. First, a unit contract would be used for delivery of the energy from the home control area to the adjacent control and area. Next, the generator would schedule "system contract" from that control area to NEPOOL (assuming that the home control area is one control area away from NEPOOL). The renewable energy effectively loses is "renewable attributes" upon delivery to the adjacent control area. What is delivered to NEPOOL, and to Massachusetts ratepayers, is system energy from the adjacent control area which could have been generated by a coal, gas or nuclear facility. The adjacent control requirement must be maintained in order to ensure that deliveries into NEPOOL are indeed deliveries of renewable energy and not energy "representing" renewable energy that was generated and delivered to the "grid" perhaps a thousand miles away.

Geothermal and Waste Heat

It is Ridgewood's view that the current RPS regulations allow electricity generated from waste heat of an otherwise qualified New Renewable Generation Unit already to qualify for RECs. Therefore, the suggestions of Pegasus Energy Project Inc. regarding waste heat are not necessary. Pegasus' request, however, could be construed as permitting waste heat generated from the generation of electricity from generation units that are not eligible for the RPS, such as a stoker facility or a coal facility. Ridgewood objects to permitting waste heat generated from such facilities to qualify for RECs. Moreover, with respect to geothermal, geothermal heat pumps should be excluded.

With respect to the adoption of any new technologies, Pegasus is correct that the DOER is authorized by Chapter 24, Section 11 to consider new technologies "after administrative hearings." Given the importance and potential impact of adding new

technologies, if the DOER were to consider doing so, it should be done as part of an administrative hearing in which the focus is the addition of these technologies and not part of a promulgation of proposed regulations in which the addition of new technologies is but one of many proposed changes or additions.

Behind the Meter/Off-Grid Generation

Ridgewood reiterates its comments regarding Behind the Meter and Off-Grid Generation that the DOER should proceed slowly on with respect to incorporating these "facilities" into the RPS due to the potential impact they may have on the calculation of the RPS percentage requirement.

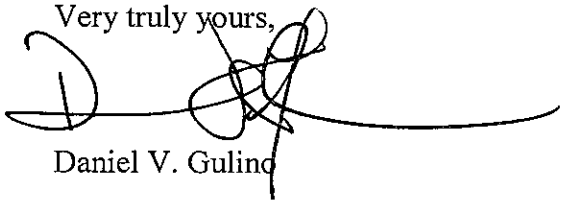
Finally, Ridgewood supports the requirement that meters be read exclusively by third-parties. However, such third-parties should not be small, independent entities. Such third-parties exclusively should be the "Local Distribution Company ("LDC"). LDCs are known, experienced entities with significant resources that, in most cases, are regulated by the Massachusetts DTE. In contrast, small independent third-party entities generally have few financial resources, less experience, and may not be subject to regulation by the DTE. As a result, these undercapitalized entities may fail, leaving Behind-the-Meter and Off-Grid Generators in difficult circumstances. The chances of an LDC failing are substantially less and in circumstances in which the DOER experiences problems with an LDC, it could petition the DTE for corrective action. With small independent entities, the DOER's available course of action is limited. Therefore, until such time as the DOER can institute reasonable oversight of such independent entities and ensure the quality and accuracy of their work, Ridgewood suggests that the LDCs be exclusive third-party meter reader.

Public Participation/Advisory Rulings

Ridgewood supports the DOER's proposal to delete the advisory ruling process. In our view, it served no useful purpose and the developers' purpose for seeking one could have been accomplished through an Application for a Statement of Qualification. Also, Ridgewood suggests that the DOER greatly expand the proceedings during which meaningful public participation (hearings etc.) is required.

We appreciate the opportunity to submit these Final Comments and your attention to them.

Very truly yours,



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